

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Christopher M. Jackson,) Case No. 6:20-cv-04415-DCC-KFM
)
 Plaintiff,)
)
 v.) **ORDER**
)
)
 Costco Wholesale Corporation,)
)
 Defendants.)
)

This matter is before the Court on Plaintiff's Amended Complaint alleging a cause of action for employment discrimination in violation of the Americans with Disabilities Act ("ADA"). ECF No. 11. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.), this matter was referred to United States Magistrate Judge Kevin F. McDonald for pre-trial proceedings and a Report and Recommendation ("Report"). On March 2, 2021, the Magistrate Judge issued a Report recommending that any claims against Unum Life Insurance Company be dismissed. The Magistrate Judge also noted that it appeared Plaintiff had abandoned his claims against Dinah Romaella, Julie Cruz, Yoram Rubanenko, Sal Tortorici, and Joe Portera ("the Individual Defendants").¹ Finally, the Magistrate Judge recommended denying Plaintiff an opportunity to automatically file a second amended complaint and noted that Plaintiff's claim pursuant to the ADA against

¹ Alternatively, the Magistrate Judge recommends dismissal of Plaintiff's claims as to these Defendants because they are entitled to summary dismissal. ECF No. 16 at 4.

Costco Wholesale Corporation would go forward. ECF No. 16. Also on March 2, 2021, the Magistrate Judge issued an order authorizing service of process as to Costco Wholesale Corporation. ECF No. 15. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Plaintiff has not filed objections to the Report and the time to do so has lapsed.²

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

² The Court notes that Plaintiff filed the Complaint and Amended Complaint pro se. ECF Nos. 1, 11. On March 16, 2021, 14 days after the issuance of the Report, counsel appeared on behalf of Plaintiff. ECF No. 20.

As stated above, Plaintiff has not objected to the Magistrate Judge's Report. Accordingly, after considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the recommendation of the Magistrate Judge. The Court finds that Plaintiff abandoned his claims as to the Individual Defendants. The Court further finds that to the extent Plaintiff intended to allege a claim against Unum Life Insurance Company it is **DISMISSED**. The Court declines to grant leave to automatically file a second amended complaint. This action remains pending as to Costco Wholesale Corporation.

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.
United States District Judge

May 18, 2021
Spartanburg, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.